

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

HB 90 - SB 742

April 23, 2021

SUMMARY OF ORIGINAL BILL: Clarifies that when an application for a permit to conduct surface coal mining operations is objected to and an informal conference is called by the Commissioner of the Department of Environment and Conservation (TDEC) to resolve the conflict between the applicant and the person objecting to the application, the Commissioner will approve or disapprove of the application, rather than the amendment, within 60 days of receipt of the new application.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004923): Deletes all language after the enacting clause. Makes various changes to the *Primacy and Reclamation Act of Tennessee*.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

The fiscal impact has been updated to show the impact of the Administration's amendment to the Governor's proposed budget which was released after the issuance of the fiscal memorandum.

(CORRECTED)

**Increase State Revenue - \$200,000/FY22-23 and Subsequent Years/
Coal Mining Protection Fund**

**Increase State Expenditures – \$871,000/FY22-23 and Subsequent Years/
General Fund
\$200,000/FY22-23 and Subsequent Years/
Coal Mining Protection Fund**

Increase Federal Expenditures - \$1,071,000/FY22-23 and Subsequent Years

Other Fiscal Impact – Implementation in FY21-22 will require expenditures exceeding \$956,100. Such expenditures will be paid using federal funds, which are available in FY21-22 in an amount up to \$1,100,000.

The Governor's proposed FY21-22 budget on page B-262 includes \$871,000 in recurring dollars for the Mining Primacy Act. The Administration's proposed

amendment reduces such amount to zero for FY21-22 but leaves the recurring funds available for future years.

Corrected assumptions for the bill as amended:

- Currently, the Office of Surface Mining, Reclamation, and Enforcement (OSM) within the United States Department of the Interior regulates surface coal mining and reclamation activities in Tennessee.
- Public Chapter 839 of 2018 established the Primacy and Reclamation Act of 2018.
- This legislation will make further changes to the Act in order for Tennessee to apply for primacy from the federal Office of Surface Coal Mining Reclamation and Enforcement (OSMRE).
- Based on information from the Departments of Environment and Conservation (TDEC) and Finance and Administration (F&A), TDEC currently has seven positions funded through federal grant dollars for primacy that were never filled. These positions were established for a two-year period and are planned to be dropped from the department's position count in FY21-22. Passage of this legislation will result in these seven positions remaining with the department.
- The seven positions will result in a recurring increase in expenditures of \$656,094 (\$522,144 salaries + \$133,950 benefits) in FY21-22.
- Based on information provided by the TDEC, additional operational and implementation costs are expected to exceed \$300,000 in FY21-22.
- Total expenditures in FY21-22 are estimated to exceed \$956,094 (\$656,094 + \$300,000).
- Such positions as well as other implementation costs will be funded in FY21-22 by federal grant dollars. Federal funding in an amount of up to \$1,100,000 is available for such implementation costs.
- Based on information from the TDEC, the federal government will grant funds to Tennessee to run the program beginning in FY22-23.
- Based on information provided by the TDEC, there will be an increase in state revenue of \$200,000 in FY22-23 and subsequent years to the Surface Coal Mining Protection Fund from permit fee revenue as required for the federal grant.
- An additional nine positions and additional operational costs will be required, resulting in total personnel and operational costs of up to \$2,142,000 in FY22-23 broken down as follows: federal funds of \$1,071,000 and state matching funds of \$1,071,000 (General Fund match of \$871,000 + state fee match of \$200,000).
- The Governor's proposed FY21-22 budget on page B-262 includes \$871,000 in recurring dollars for the Mining Primacy Act. The Administration's proposed amendment reduces such amount to zero for FY21-22 but leaves the recurring funds available for future years.
- Any impact on severance tax revenue, as a direct result of this legislation, is estimated to be not significant.
- Based on information from the TDEC, there have not been any convictions from violation of federal mining statutes, related to Tennessee operations, for over 10 years; therefore, this legislation is estimated to have no significant impact on incarceration costs.

- All such revenue and expenditures, collected and incurred, respectively, will be placed in or taken out of the Coal Mining Protection Fund.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/jb